



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GOLDEN GOLD SERVICES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

MNDCT, OLC, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenants stated that the landlord was served on March 27, 2021 via email with the notice of hearing package and subsequent additional emails containing the tenants documentary evidence files. The landlord initially stated that he was not served, but later clarified that the hearing package and evidence was received via email. The landlord stated that the email was received by his assistant in March 2021 and argued that this was not his proper email address and that he was not served via Canada Post Registered Mail. The tenants argued that this was how they paid rent via etransfer and for all rental communications with the landlord. Neither party raised any other service issues. I accept the undisputed affirmed evidence of both parties and find that despite the tenants not applying for substitute service to serve the landlord via email, I find that the tenants have provided sufficient evidence to satisfy me that this email was the

primary form of communication between the two parties. As such, the landlord is deemed served as per section 90 of the Act.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenants seek a monetary claim of \$2,249.00 which consists of:

\$2,149.00	Compensation, moving expenses and last months rent
\$100.00	Filing Fee

The tenants claim that due to unresolved repair issues from a previous dispute the tenants notified the landlord that they were ending the tenancy and vacated the rental property. The tenants claim that as part of a verbal agreement made with the landlord the tenants would vacate the rental unit and the landlord would compensate the tenants with the costs for their moving and compensation of \$1,649.00 equal to one months rent. As such, the tenants seek moving costs of \$500.00 and \$1,649.00 which was what their monthly rent was at the end of the tenancy. The landlord disputed this claim arguing that at no time was an agreement made to end the tenancy and compensate the tenants. The landlord stated that the tenants gave notice to end the tenancy and left. The tenants stated that they are not in possession of any supporting evidence of a mutual agreement to end the tenancy or for the compensation agreed to by the landlord.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has

been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the affirmed testimony of both parties and find on a balance of probabilities that the tenants have failed to establish their claim for compensation. Despite the tenants arguing that a mutual agreement to end the tenancy was made and the landlord would compensate the tenants, the landlord has disputed that no such agreement was made. The tenant stated that this was a verbal agreement and that there is no supporting evidence for this agreement. On this basis, I find that the tenants have failed to provide sufficient evidence to satisfy me of their claim.

### Conclusion

The tenants' application is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 06, 2021

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Residential Tenancy Branch